

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Transforming the 2.5 GHz Band)	WT Docket No. 18-120
)	

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”)¹ hereby submits the following comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM”) seeking comment on ways to modernize the 2.5 GHz Educational Broadband Service (“EBS”) spectrum band.² The NPRM addresses the largest band of contiguous spectrum below 3 GHz, of which “significant portions . . . currently lie fallow across approximately one-half of the United States, mostly in rural areas.”³ Accordingly, this proceeding offers a prime opportunity to increase spectrum resources for next-generation mobile operations.⁴ CCA agrees that the Commission’s efforts to “allow more efficient and effective

¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain.

² *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, Transforming the 2.5 GHz Band*, Notice of Proposed Rulemaking, FCC 18-59, WT Docket Nos. 03-66, 18-120 (rel. May 10, 2018) (“2.5 GHz NPRM”).

³ Ajit Pai, *On the Road Again*, FCC BLOG (July 25, 2018 9:55 AM), <https://www.fcc.gov/news-events/blog/2018/04/18/road-again> (“*On the Road Again*”).

⁴ *See, FCC Takes Steps to Transform the 2.5 GHz Band for Next Generation 5G Connectivity*, Press Release, WT Docket No. 18-120 (rel. May 10, 2018).

use of this spectrum band” will “facilitate improved access to next-generation wireless broadband, including 5G.”⁵ CCA supports the Commission’s proposal to make unused licenses available for commercial use, while maintaining existing users’ deployment strategies.

I. THE FCC SHOULD GRANT EXISTING LICENSEES SUFFICIENT FLEXIBILITY AND RATIONALIZE EXISTING 2.5 GHz HOLDINGS BY COUNTY LINES.

CCA applauds the Commission’s ongoing efforts to make more spectrum available for next-generation and 5G deployments,⁶ and reinvigorating the 2.5 GHz band is an important consideration of this mutual goal. As the Commission acknowledges, ensuring that this spectrum is “used... intensively is an important public interest goal.”⁷ At the same time, the FCC must be careful not to disturb existing arrangements, including current lease agreements that inspire broadband deployments in rural and remote areas. For these reasons, the Commission should rationalize existing Geographic Service Areas (“GSAs”) to county lines to clear boundaries and provide existing licensees predictability to continue using this spectrum throughout the rationalization process. Expanding to county lines also will provide certainty to

⁵ NPRM ¶ 1.

⁶ See, e.g., *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, FCC Fact Sheet – Draft Fourth Further Notice of Proposed Rulemaking, WT Docket No. 14-177 (rel. July 12, 2018) (“Draft 39 GHz FNPRM”); *Auctions of Upper Microwave Flexible Use Licenses for Next-Generation Wireless Services: Comment Sought on Competitive Bidding Procedures for Auctions 101 (28 GHz) and 102 (24 GHz)*, Public Notice, AU Docket No. 18-85 (rel. Apr. 17, 2018) (“28/24 GHz Auctions Procedures Public Notice”); *Spectrum Horizons*, Notice of Proposed Rulemaking and Order, ET Docket No. 18-21 (rel. Feb. 28, 2018) (“Horizons NPRM”); *Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz*, Notice of Inquiry, 32 FCC Rcd 6373 (2017) (“Mid-Band NOI”); *Promoting Investment in the 3550-3700 MHz Band*, Notice of Proposed Rulemaking, 32 FCC Rcd 8071 (2017) (“3.5 GHz NPRM”); *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-89, 31 FCC Rcd. 8014 (2016) (“*First Report & Order*”).

⁷ NPRM ¶ 10.

existing licensees and potential new entrants and prevent any unnecessary delay in the auction of remaining licenses.⁸ What’s more, should the Commission adopt its proposal to use Priority Access Windows, in this instance, use of county borders is consistent with the proposal to condition spectrum acquired by existing licensees through Priority Access Windows to county-based licenses.⁹

CCA likewise supports the Commission’s proposal to grant additional flexibility to EBS licensees to promote more intensive and efficient spectrum use.¹⁰ In doing so, the Commission should allow existing licensees to assign or transfer control of their licenses to entities that are non-EBS eligible.¹¹ Allowing existing licensees to enter into these arrangements without unnecessary obstacles will promote more efficient and intensive use of the spectrum.

II. THE COMMISSION SHOULD MAXIMIZE OPPORTUNITIES TO ACQUIRE REMAINING 2.5 GHz SPECTRUM.

While industry moves toward next-generation technologies and the Internet of Things, freeing up additional spectrum for use in unserved and underserved areas is an important benchmark toward deploying 5G and next-generation technologies. Once the Commission has

⁸ CCA has similarly supported tailored use of county borders to license other spectrum bands, like the 3.5 GHz band. *See*, Letter from Rebecca Murphy Thompson, EVP & GC, CCA, and Scott K. Bergmann, Senior Vice President – Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 17-258 (filed Apr. 20, 2018) (“[t]he Commission should license PALs using Metropolitan Statistical Areas in the top 306 Cellular Market Areas and use county-based geographic area licenses in the remaining 428 CMAs.”). In the instant proceeding, the Commission should refrain from creating a patchwork licensing regime and adopt county borders as a proper measurement to rationalize the 2.5 GHz band, for the reasons listed herein. Similar to the 3.5 GHz band, the Commission’s proposal to license 2.5 GHz spectrum based on census tracts would significantly impact auction complexity and substantially increase network infrastructure and deployment costs.

⁹ NPRM ¶ 33.

¹⁰ *Id.* ¶ 19.

¹¹ For purposes of this proceeding, “existing licensees” should include those actively using the licenses pursuant to Special Temporary Authority or waiver.

successfully rationalized the band and performed its due diligence to safeguard existing deployments, the FCC should expeditiously auction remaining 2.5 GHz spectrum resources. As CCA has noted on record, offering additional spectrum to all carriers at auction will provide the industry with a meaningful opportunity to develop a competitive marketplace today and next-generation services.¹² For this reason, the Commission should adopt its proposed approach to license any remaining 2.5 GHz spectrum for commercial use through competitive bidding. Indeed, as noted on record, an auction of 2.5 GHz spectrum “will greatly benefit [the public by] expanding spectrum opportunities for existing EBS licensees as well as potential new EBS entrants.”¹³

CCA likewise supports the FCC’s proposal to initiate a 2.5 GHz auction “[c]onsistent with [its] longstanding approach” through a public notice process that solicits input on auction design and procedures.¹⁴ As a general matter, and to advance participation in any future auction, CCA reiterates its request that the FCC ensure its anti-collusion rules are not overly restrictive so as to stifle providers’ ability to conduct business as usual.¹⁵ The FCC’s anti-collusion rules should not inadvertently force providers to stall construction for essential communications deployments, and in turn delay access to advanced communications.¹⁶ Rather, the Commission

¹² See, Comments of Competitive Carriers Association, WT Docket No. 18-203 at 21 (filed July 26, 2018) (“CCA Communications Marketplace Report Comments”); Letter from Courtney Neville, Policy Counsel, Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177 (filed Oct 20, 2017).

¹³ Letter from Gardner H. Foster, Senior Counsel – Legal and Government Affairs, Sprint Corporation, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 18-120 (filed Apr. 27, 2018) (“Sprint Letter”).

¹⁴ NPRM ¶ 51.

¹⁵ See, Comments of Competitive Carriers Association, AU Docket No. 18-85 at 6-10 (filed May 9, 2018).

¹⁶ *Id.* at 8.

should seize this opportunity to design an efficient and robust auction process to ensure remaining 2.5 GHz spectrum resources are put to their best and highest use.

III. THE FCC SHOULD CONSIDER CREATING PRIORITY ACCESS WINDOWS FOR EXISTING LICENSEES AND TRIBAL ENTITIES.

CCA supports the Commission's proposal to create a window to allow existing licensees that are "already providing service in a significant portion of a county (and have a physical presence in that county) to expand their service to the county border."¹⁷ CCA agrees that participation should be limited to existing licensees as of the time of adoption of the NPRM and to those that are actively using or leasing their existing licenses.¹⁸ The FCC should enact a tailored approach that provides opportunity for all stakeholders to put spectrum that has lied fallow to efficient use.

CCA likewise supports the FCC's proposal to create a Priority Access Window for federally-recognized rural Tribal Nations that are seeking licenses in rural areas where they have a physical, local presence.¹⁹ In addition to federally-recognized rural Tribal Nations, the Commission should define "Tribal entity" to include an entity that is either a Tribal governmental entity, majority-owned by a Tribal governmental entity, or controlled by a Tribal government entity. For example, where there is a corporate entity that provides telecommunications services on Tribal land, the Commission should adopt policies that will enable a Tribe to use that same corporate entity when launching 2.5 GHz service. CCA agrees that "[o]pening such a window would allow Tribal Nations... to address educational and

¹⁷ NPRM ¶ 32.

¹⁸ *Id.* ¶ 33. *See, supra* note 11. Existing licensees should include those actively operating pursuant to STA or waiver.

¹⁹ *Id.* ¶ 36.

communications needs of their communities... including to areas that have too long been without.”²⁰ Doing so will help ensure all stakeholders have an opportunity to acquire this resource for the benefit of consumers in their service footprint.

IV. THE FCC SHOULD ADOPT REASONABLE PERFORMANCE REQUIREMENTS THAT ARE CONSISTENT WITH BUILDOUT BENCHMARKS FOR OTHER SPECTRUM BANDS.

The Commission should institute reasonable performance requirements for 2.5 GHz spectrum licensees that are consistent with buildout benchmarks for other spectrum bands.²¹ CCA applauded the Commission’s prior efforts to reduce unnecessary regulatory requirements for cellular licensing²² and wireless radio services,²³ as these efforts will minimize administrative burdens and allow licensees to focus on offering ubiquitous service. As the Commission continues its efforts to reform wireless radio services, and in particular the 2.5 GHz band, CCA urges the Commission to consider marketplace realities associated with spectrum construction and deployment. Indeed, CCA encourages the FCC to balance this consideration with the

²⁰ *Id.* ¶ 35.

²¹ See, e.g., *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, Second Report and Order and Further Notice of Proposed Rulemaking, FCC No. 17-105, WT Docket No. 10-112, ¶ 50 (rel. Aug. 3, 2017); *Wireless Telecommunications Bureau Seeks Comment on Process for Relicensing 700 MHz Spectrum in Unserved Areas*, Public Notice, WT Docket No. 06-150 (rel. Aug. 28, 2017) (“Notice”).

²² See, *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 to Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services; 2016 Biennial Review of Telecommunications Regulations*, Third Report and Order, FCC No. 18-92, WT Docket Nos. 10-112, 16-138 (rel. July 13, 2018).

²³ See, *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, Second Report and Order and Further Notice of Proposed Rulemaking, FCC No. 17-105, WT Docket No. 10-112, ¶ 50 (rel. Aug. 3, 2017).

significant resources that providers who currently use 2.5 GHz spectrum have expended to acquire and construct this spectrum.

CCA encourages the Commission to take a holistic approach to modernizing its spectrum licensing procedures in the 2.5 GHz band. As the FCC acknowledged in the *Wireless Radio Services* proceeding, it is important to implement a “unified regulatory framework... that enhances competition and facilitates robust use of the nation’s scarce spectrum resources.”²⁴ For these reasons, any approach adopted by the Commission in this proceeding should provide carriers certainty and flexibility in meeting spectrum buildout requirements.²⁵ Specifically, performance benchmarks should be consistent with those adopted in other spectrum licensing proceedings. The Commission should continue to promote policies that ensure carriers can adequately deploy to consumers in rural and remote areas. Such an approach will avoid overburdening existing licensees and prevent foreclosure for new entrants. The Commission must seize this opportunity to “clean-up” and reinvigorate the 2.5 GHz spectrum band and adopting consistent performance requirements will help to achieve this laudable goal.

V. CONCLUSION.

CCA applauds the Commission’s recent action to reinvigorate and allocate additional spectrum resources, including the 2.5 GHz band. As the FCC recognizes, the benefits of wireless broadband in rural America are boundless. But carriers cannot make this future for success a reality without the proper spectrum resources. It is therefore critically important for the Commission to pursue innovative solutions to free-up underused spectrum, as identified herein. The Commission should move forward with tailored proposals to maximize

²⁴ *Id.*

²⁵ Reply Comments of Competitive Carriers Association, WT Docket No. 06-150 at 4 (filed Oct. 10, 2017) (“CCA 700 MHz Relicensing Reply Comments”).

opportunities for all stakeholders to acquire new spectrum resources while maintaining existing users' deployment strategies.

Respectfully submitted,

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